producer and packer rights and obligations under the contract.

Negotiated purchase. A purchase, commonly known as a "cash" or "spot market" purchase, of swine by a packer from a producer under which:

(1) The buyer-seller interaction that results in the transaction and the agreement on actual base price occur on the same day; and

(2) The swine are scheduled for delivery to the packer not later than 14 days after the date on which the swine are committed to the packer.

Noncarcass merit premium or discount. An increase or decrease in the price for the purchase of swine made available by an individual packer or packing plant, based on any factor other than the characteristics of the carcass, if the actual amount of the premium or discount is known before the purchase and delivery of the swine.

Other market formula purchase. A purchase of swine by a packer in which the pricing determination is a formula price based on any market other than the markets for swine, pork, or a pork product. The pricing determination includes, but is not limited to:

(1) A price formula based on one or more futures or options contracts;

(2) A price formula based on one or more feedstuff markets, such as the market for corn or soybeans; or

(3) A base price determination using more than one market as its base where at least one of those markets would be defined as an "other market formula purchase."

Other purchase arrangement. A purchase of swine by a packer that is not a negotiated purchase, swine or pork market formula purchase, or other market formula purchase, and does not involve packer-owned swine.

Packer. Any person engaged in the business of buying swine in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from swine for sale or shipment in commerce, or of marketing meats or meat food products from swine in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce. The regulations in this part only apply to a packer purchasing at least 100,000 swine per year and slaughtering swine at a feder-

ally inspected swine processing plant that meets either of the following conditions:

(1) A swine processing plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding 5 calendar years, with the average based on those periods in which the plant slaughtered swine; or

(2) Any swine processing plant that did not slaughter swine during the immediately preceding 5 calendar years that has the capacity to slaughter at least 100,000 swine per year, based on plant capacity information.

Producer. Any person engaged, either directly or through an intermediary, in the business of selling swine to a packer for slaughter (including the sale of swine from a packer to another packer).

Swine. A porcine animal raised to be a feeder pig, raised for seedstock, or raised for slaughter.

Swine or pork market formula purchase. A purchase of swine by a packer in which the pricing determination is a formula price based on a market for swine, pork, or a pork product, other than a futures contract or option contract for swine, pork, or a pork product.

§ 206.2 Swine contract library.

(a) *Do I need to provide swine contract information?* Each packer, as defined in § 206.1, must provide information for each swine processing plant that it operates or at which it has swine slaughtered that has the slaughtering capacity specified in the definition of packer in § 206.1.

(b) *What existing or available contracts do I need to provide and when are they due?* Each packer must send, to the Grain Inspection, Packers and Stockyards Administration (GIPSA), an example of each contract it currently has with a producer or producers or that is currently available at each plant that it operates or at which it has swine slaughtered that meets the definition of packer in § 206.1. This initial submission of example contracts is due to GIPSA on the first business day of the month following the determination

that the plant has the slaughtering capacity specified in the definition of packer in § 206.1.

(c) *What available contracts do I need to provide and when are they due?* After the initial submission, each packer must send GIPSA an example of each new contract it makes available to a producer or producers within one business day of the contract being made available at each plant that it operates or at which it has swine slaughtered that meets the definition of packer in § 206.1.

(d) *What criteria do I use to select example contracts?* For purposes of distinguishing among contracts to determine which contracts may be represented by a single example, contracts will be considered to be the same if they are identical with respect to all of the following four example-contract criteria:

(1) Base price or determination of base price;

(2) Application of a ledger or accrual account (including the terms and conditions of the ledger or accrual account provision);

(3) Carcass merit premium and discount schedules (including the determination of the lean percent or other merits of the carcass that are used to determine the amount of the premiums and discounts and how those premiums and discounts are applied); and

(4) Use and amount of noncarcass merit premiums and discounts.

(e) *Where and how do I send my contracts?* Each packer may submit the example contracts and notifications required by this section by either of the following two methods:

(1) *Electronic report.* Example contracts and notifications required by this section may be submitted by electronic means. Electronic submission may be by any form of electronic transmission that has been determined to be acceptable to the Administrator. To obtain current options for acceptable methods to submit example contracts electronically, contact GIPSA through the Internet on the GIPSA Web site (*http://www.usda.gov/gipsa/*) or at USDA GIPSA, Suite 317, 210 Walnut Street, Des Moines, IA 50309.

(2) *Printed report.* Each packer that chooses to submit printed example contracts and notifications must deliver the printed contracts and notifications to USDA GIPSA, Suite 317, 210 Walnut Street, Des Moines, IA 50309.

(f) *What information from the swine contract library will be made available to the public?* GIPSA will summarize the information it has received on contract terms, including, but not limited to, base price determination and the schedules of premiums or discounts. GIPSA will make the information available by region and contract type as defined in § 206.1, for public release one month after the initial submission of contracts. Geographic regions will be defined in such a manner to provide as much information as possible while maintaining confidentiality in accordance with section 251 of the Agricultural Marketing Act (7 U.S.C. 1636).

(g) *How can I review information from the swine contract library?* The information will be available on the Internet on the GIPSA Web site (*http://www.usda.gov/gipsa/*) and at USDA GIPSA, Suite 317, 210 Walnut Street, Des Moines, IA 50309. The information will be updated as GIPSA receives information from packers.

(h) *What do I need to do when a previously submitted example contract is no longer a valid example due to contract changes, expiration, or withdrawal?* Each packer must submit a new example contract when contract changes result in changes to any of the four example-contract criteria specified in paragraph (d) of this section and notify GIPSA if the new example contract replaces the previously submitted example contract. Each packer must notify GIPSA when an example contract no longer represents any existing or available contract (expired or withdrawn). Each packer must submit these example contracts and notifications within one business day of the change, expiration, or withdrawal.

(Approved by the Office of Management and Budget under control number 0580–0021)

§ 206.3 Monthly report.

(a) *Do I need to provide monthly reports?* Each packer, as defined in § 206.1, must provide information for each swine processing plant that it operates or at which it has swine slaughtered that has the slaughtering capacity specified in the definition of packer.